

# MINUTES

JULY

July 1<sup>st</sup> – July 31<sup>st</sup>

MINUTES  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Monday, July 2, 2007

Division One

**A114366 – Sue C. Brandenburg v. Eureka Redevelopment Agency et al.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Certified for Publication.)

**A114061 – The People v. Donald Clayton Bowen.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Tuesday, July 3, 2007

Division One

**A114245 – Conservatorship of the Person of Laura Hane Napier. Debra J. Dolch, as Conservator, etc. v. Larry Napier, as Trustee etc.**

The trial court's order is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A115310 – The People v. Oscar Castellanos.**

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Three

**A111947, A112134 – Nicole Daro et al. V. The Superior Court of the City and County of San Francisco, James Foy et al., R.P.I. James Foy et al. v. Gary Rossis et al., North Beach Partners LLC et al.**

By the Court: It is ordered that the opinion filed herein on June 6, 2007, be modified as follows: (See order.) There is no change in the judgment. The petition for rehearing is denied. McGuiness, P.J. (Certified for Publication.)

Division Four

**A112643 – The People v. Frank S. Rodriguez, Jr.**

The judgment is affirmed. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A113828 – The People v. Tony Martinez.**

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Thursday, July 5, 2007

Division One

**A114351 – Estate of Louise C. Howe, Deceased. Gary J. Howe v. Richard Howe.**

The probate court's ruling of April 11, 2006, regarding the petition for final distribution is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

**A115496 – Conservatorship of the Person and Estate of Katherine H. Lake County Public Guardian v. Katherine H.**

The order appointing a conservator is affirmed. The matter, however, is remanded for further proceedings consistent with this opinion concerning the restrictions on appellant's right to vote, right to contract, right to refuse nonpsychiatric medical treatment, and right to refuse psychiatric treatment. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A114661 – Andrew Cohen v. City and County of San Francisco et al.**

The judgment is reversed and the matter is remanded to the trial court for entry of a new judgment commanding respondents to rescind Cohen's unpaid suspension and restore any pay and benefits lost as a result of his temporary suspension from December 8, 2005 until December 16, 2005. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Five

**A111239 – The People v. Joshua Nathan Hernandez.**

By the Court: It is ordered that the opinion filed herein on June 7, 2007, be modified as follows: (See order.) There is no change in the judgment. Appellant's petition for rehearing is denied. Simons, Acting P.J. (Not for Publication.)

**A114665 – The People v. David W. Wiley.**

The order is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Friday, July 6, 2007

Division One

**A117771 – Denna E. v. Superior Court of Humboldt County, Humboldt County Social Services Agency et al.**

The request for stay is denied, and the petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The decision is final in this court immediately. (Rule 8.264(b)(3).) Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Three

**A111602 – Aviation Data, Inc., et al. v. American Express Travel Related Services Company, Inc., et al.**

**A114182 – William D. Hoffman et al. v. American Express Travel Related Services Company, Inc., et al.**

The orders are affirmed. Siggins, J. We Concur: McGuiness, P.J., Parrilli, J. (Certified for Publication.)

Division Four

**A111685 – The People v. Francisco Monteros.**

By the Court: The petition for rehearing is denied. Ruvolo, P.J.

Division Five

**A114165 – The People v. Justin Silva.**

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Needham, J. (Not for Publication.)

**A102915 – The Limited Stores, Inc., et al. v. Franchise Tax Board.**

By the Court: The opinion in the above-entitled matter filed on June 8, 2007, was not certified for publication in the Official Report. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. Simons, Acting P.J. (Certified for Publication.)

Friday, July 6, 2007 (continued)

Division Five

**A114544 – In re Samuel M., a Person Coming Under the Juvenile Court Law. The People v. Samuel M.**

The orders of the juvenile court are affirmed. Needham, J. We Concur: Simons, Acting P.J., Gemello, J. (Not for Publication.)

Monday, July 9, 2007

Division Two

**A109381 – The People v. Mitchell Tatmon.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Richman, J. (Not for Publication.)

**A115804 – In re Dorothy F., a Person Coming Under the Juvenile Court Law. Sonoma County Department of Human Services v. Steven L.**

The October 16, 2006 order terminating Steven's parental rights is reversed, and the matter is remanded for the limited purpose of providing notice of the proceedings in accordance with the ICWA requirements. If, after proper notice, the tribes either do not respond or determine that Dorothy is not an Indian child with respect to the tribes, the juvenile court shall reinstate the order. Richman, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Four

**A116227 – The People v. Emilio Valencia.**

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Division Five

**A112967, A113548 – The People v. Nathan Matthew Evert.**

The judgment of conviction is affirmed. Needham, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

**A112131 – Patrick Reeves v. James W. Beazley, et al.**

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Needham, J. (Not for Publication.)

Tuesday, July 10, 2007

Division One

**A113981 – The People v. Luther Gene Weathers.**

The judgment is modified to stay the sentence on counts II and IV pursuant to Penal Code section 654. As so modified, the judgment is affirmed. The trial court is directed to prepare and forward an amended abstract of judgment reflecting the modifications to the Department of Corrections. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Four

**A113707 – Diane Mills v. Charles A. Triay**

By the Court: The petition for rehearing is denied. Ruvolo, P.J.



MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, July 10, 2007

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P.J., Sepulveda, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Kevin Bartlett, Bailiff.

A116613      Raymond Cote  
                 v.  
                 Lincoln D. Finley et al.  
Cause called. In pro per appellants LaTonya Finley and Lincoln D. Finley argued. Jill Bates argued for respondent. Cause submitted.

A113659      Nathan Cohn  
                 v.  
                 Law Office of Raymond H. Levy, Inc. et al.  
Cause called. John McGuinn argued for appellant Cohn. Merrill G. Emerick argued for respondents. Cause submitted.

At this point, the court reconstituted itself to include Ruvolo, P.J., Reardon, J., and Rivera, J.

A116602      George Kulya  
                 v.  
                 Susanna Reyngach  
Cause called. In pro per appellant Susanna Reyngach, at times assisted by interpreter Magda Soley, argued. Constantine Zhukovsky argued for respondent. Cause submitted.

A114524      In re Allen J., a Minor.  
                 People  
                 v.  
                 Allen J.  
Cause called. Shamus Roller argued for appellant Allen J. Ronald Niver argued for respondent. Cause submitted.

Court adjourned at 11:02 a.m.

Tuesday, July 10, 2007 (continued)

Division Five

**A112917 – The People v. Billie Ray Pratt.**

The judgment is affirmed. Needham, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Wednesday, July 11, 2007

Division One

**A114419 – Sheila Brown v. 24 Hour Fitness USA, Inc.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, July 11, 2007

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., and Parrilli, J.; and B. Robbins, Deputy Clerk.

Presiding Justice McGuiness announced that Justice Siggins was on the panel for the first 3 cases but was away from the court and would listen to recordings of oral argument. Counsel agreed to proceed without the presence of Justice Siggins.

A112744     The People,  
              v.  
              Anita Beatriz Blick,  
Cause called and argued by J. Courtney Shevelson, counsel for appellant, and Catherine McBrien, counsel for respondent. Cause ordered submitted.

A117368     Kief G.,  
              v.  
              Superior Court of San Francisco County;  
              San Francisco Department of Human Services, et al.  
Cause called and argued by Margaret A. Pendergast, counsel for petitioner. There was no appearance for real party in interest San Francisco Department of Human Services; however, the court noted that the Department waived argument in its opposition to the petition. Cause ordered submitted.

At this point in the proceedings, Justice Pollak joined the bench. Justice Parrilli remained in the courtroom but was not on the panel for the next case and did not participate in argument.

A114962     Marcia Y. Wang, et al.,  
              v.  
              Merrill Lynch Credit Corp.,  
Cause called and argued by Jay T. Jambeck, counsel for appellants, and Ben Suter, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Presiding Justice McGuiness left the bench. Justice Parrilli was on the panel for the last two cases of the morning and presided over the remainder of the session. Justice Parrilli advised remaining counsel that Justice Siggins was also on the panel for the last two cases but away from the court and would listen to recordings of oral argument. Counsel agreed to proceed without the presence of Justice Siggins.

- A114943     Affholder, Inc.  
              v.  
              Mitchell Engineering.  
Cause called and argued by Laurence R. Phillips, counsel for appellant, and  
Alexander Bannon, counsel for respondent. Cause ordered submitted.
- A115019     Joshua LeMaster  
              v.  
              Brian Tolson, et al.  
Cause called. Appellant was unable to appear for argument and did not respond to  
court's notice of June 26 advising that he could appear by teleconference if he was  
able to make the appropriate arrangements. Cause argued by Patrick Wilson for  
respondents Tolson, et al., and Lawrence Siegel, respondent in pro per. Cause  
ordered submitted.

Court Adjourned

Wednesday, July 11, 2007 (continued)

Division Four

**A115152 – In re T.H., a Person Coming Under the Juvenile Court Law. The People v. T.H.**

The order of the juvenile court committing appellant to CYA is affirmed. The matter is remanded to the juvenile court with directions to the juvenile court to determine whether an evaluation of appellant's special educational needs should be conducted, and if so, to order an IEP. The juvenile court thereafter is to reconsider if appellant has special educational needs, and if so, to forward its finding to the CYA in an amended commitment order together with the IEP, if such is prepared. Finally, the reference to the reimbursement order contained in the August 24, 2006 abstract of judgment is stricken. Ruvolo, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Division Five

**A114337 – John Britton et al. v. Dallas Airmotive, Inc., et al., XL Specialty Insurance Company.**

The trial court order staying the action is affirmed. Gemello, J. We Concur: Jones, P.J., Needham, J. (Certified for Partial Publication.)

Thursday, July 12, 2007

Division One

**A111960 – The People v. Trent Davis.**

The judgment is modified to strike the one-year prior prison term enhancement imposed pursuant to Penal Code section 667.5, subdivision (b). The clerk of the superior court is directed to prepare an amended abstract of judgment and to forward it to the Department of Corrections. In all other respects, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A116386 – The People v. Christopher Edwards.**

We find no arguable issues after a full review of the record and, accordingly, affirm the judgment. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A112248 – In re David Mark Stier on Habeas Corpus.**

By the Court: It is ordered that the opinion filed herein on June 15, 2007, be modified in the following particulars: (See order.) There is no change in the judgment. Marchiano, P.J. (Certified for Publication.)

**A110913 – Michael DiPirro v. Bondo Corporation.**

Accordingly, the judgment is affirmed. The parties are to bear their own costs on appeal. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Certified for Publication.)

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Thursday, July 12, 2007

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., Swager, J., and F. Abad, Deputy Clerk.

A117202     Alberto Alvarez,  
                 v.  
                 Superior Court San Mateo County,  
                 The People.  
Cause called and argued by John Halley, counsel for petitioner, and James Chadwick, counsel for real party in interest. Cause ordered submitted.

A116702     Washington Mutual Bank,  
                 v.  
                 Workers' Compensation Appeals Board,  
                 Judy Helm.  
Cause called and argued by Shari Levy, counsel for petitioner, and Richard Meechan, counsel for respondent. Cause ordered submitted.

Justice Marchiano left the bench, Justice Margulies joined the bench, and Justice Stein presided over the remainder of the calendar.

A111315     People,  
                 v.  
                 Alfredo Valenzuela.  
Cause called and argued by John McCabe, counsel for appellant, and Mark Howell, counsel for respondent. Cause ordered submitted.

A115921     Tiffany Sumuel,  
                 v.  
                 Advo Inc., et al.  
Cause called and argued by Mary Dumont, counsel for appellant, and Jonathan Cohen, counsel for respondents. Cause ordered submitted.

Continued



A114667    Lili Butler-Rupp,  
              v.  
              Roseanna Lourdeaux, et al.  
Cause called and argued by Lance Orloff, counsel for appellants, and Joseph  
Mascovich, counsel for respondent. Cause ordered submitted.

A114181    Trinidad Amador, et al.,  
              v.  
              Judith Charter, et al.  
Cause called and argued by Jack Siedman, counsel for appellants, and Stephen  
Barbose, counsel for respondents. Cause ordered submitted.

Court recessed until 1:30 p.m.

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Thursday, July 12, 2007

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., Swager, J., Margulies, J., and F. Abad, Deputy Clerk.

Justice Marchiano announced that Justice Stein will preside over the first case and there will be a panel change thereafter.

The last case on calendar, Thomason v. Morgan, was called. The lawyers were not present. Justice Marchiano confirmed with the courtroom clerk that the Court was first notified that the parties have settled and then Mr. Schneider, counsel for appellant, faxed a notice saying that they have not settled and wants the case back on calendar. Another fax was received by the court indicating a dispute amongst the parties and the parties will appear for oral argument. The matter was passed and will be dealt with later in the day.

A117444 University of California,  
v.  
Workers' Compensation Appeals Board,  
Rana Rand.  
Cause called and argued by Christina Imre, counsel for petitioner, and Eugene Oreck, counsel for respondent. Cause ordered submitted.

Before the next case on calendar was called, Justice Marchiano requested the divisional clerk called the parties to advised them that they are suppose to appear for oral argument, the court is waiting for them, and will take appropriate actions.

Justice Stein left the bench.

A113742 Alan Konig,  
v.  
State Bar of California.  
Cause called and argued by Alan Konig, counsel for appellant, and James Wagstaffe, counsel for respondent. Cause ordered submitted.

Continued

A114641 Leonard J. Devilbiss,  
v.  
John Demarchi.  
Cause called and argued by Peter Hirsig, counsel for appellant, and Andrew

Dosa, counsel for respondent. Cause ordered submitted.

A111668 Crawford Thomason,

v.

Angela Morgan.

The matter has been restored to the calendar at the specific request by Mr. Schneider. By letter from Angela Morgan to Lawrence Padway indicating this matter has not settled. The Court wants the parties to appear to resolve the matter. Cause called again. The parties are not present. The Court deemed oral argument waived. Cause ordered submitted and will render a decision in the case.

Court adjourned.

Thursday, July 12, 2007 (continued)

Division Two

**A116468 – The People v. Aminder Singh Sandhu.**

The judgment is affirmed. Richman, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Four

**A115805 – Hyunsoo Kenneth Ahn v. Hyun Soo Kim.**

The judgment is affirmed. Costs on appeal are awarded to respondent. Ruvolo, P.J., We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Friday, July 13, 2007

Division Two

**A115256 – The People v. Jose A. Jimenez.**

The judgment is affirmed. Richman, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A116518 – The People v. Vijay Kaheel Williams.**

The judgment of conviction is affirmed. Richman, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A108492 – The People v. Zameer Riaz Azam.**

The judgment is vacated only as to defendant's sentence, and the case is remanded for resentencing. The judgment is otherwise affirmed. We express no opinion whether compliance with *Cunningham* will require a change in the actual sentence imposed in this case. Siggins, J. We Concur: Parrilli, Acting P.J., Pollak, J. (Not for Publication.)

Division Four

**A116007 – In re Michael A., a Person Coming Under the Juvenile Court Law. The People v. Michael A.**

The order sustaining the allegations of count 1 is reversed and remanded for further dispositional proceedings consistent with this opinion. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

**A110538 – Eugenio Paul Feliciano v. Toyota Industrial Equipment Manufacturing, Inc.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

**A117143 – Minatta Transportation Company et al. v. Workers' Compensation Appeals Board and Paul D. Lanning.**

By the Court: The award of permanent disability indemnity is annulled, and the case is remanded for recalculation of that award using the permanent disability rating schedule effective January 1, 2005. The parties shall bear their own costs. Before Ruvolo, P.J., Reardon, J., Rivera, J.

Friday, July 13, 2007 (continued)

Division Five

**A114678 – Karen Schermerhorn v. Regents of the University of California et al.**

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Needham, J. (Not for Publication.)

**A113018 – The People v. Frank Mejia.**

The case is remanded for resentencing and reduction of the restitution fine. In all other respects the judgment is affirmed. Simons, Acting P.J., We Concur: Gemello, J., Needham, J.

**A114629 – The State of California ex. rel. Robert Hindin v. Hewlett-Packard Company et al.**

The requests for judicial notice of the amicus California Attorney General, and respondent H-P, are granted. The judgment of dismissal is reversed and remanded to the trial court for further proceedings. Costs on appeal to appellant. Needham, J. We Concur: Simons, Acting P.J., Gemello, J. (Certified for Publication.)

Monday, July 16, 2007

Division One

**A115764 – The People v. Michael Wayne Stagg.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Three

**A116358 – The People v. Susan E. Botts.**

The appeal in this court is dismissed. The clerk of this court is directed to transfer the record and briefs in this case to the clerk of the appellate division of the Del Norte County Superior Court for resolution in that court. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A093424, A093649 – Ray Kinsman et al. v. Unocal Corporation.**

By the Court: The court orders the opinion filed herein on June 20, 2007 modified as follows: (See order.) This modification does not alter the judgment. Appellant's petition for rehearing is denied. McGuiness, P.J. (Not for Publication.)

Division Five

**A110774 – The People v. Malik Ali Muhammad.**

The convictions on counts 1 through 3 and the sentence imposed thereon are vacated. The convictions on counts 4 and 5 and sentencing on count 5 are affirmed. The matter is remanded for resentencing on count 4. Simons, J. We Concur: Jones, P.J., Needham, J. (Certified for Partial Publication.)

Tuesday, July 17, 2007

Division One

**A115850 – Isaac Kashama Kalonji v. Crown Fortune Properties et al.**

The orders granting summary judgment to respondents and denying appellant's motion to file the TAC are affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

**A114530, A115595 – In re James R., a Person Coming Under the Juvenile Court Law. The People v. James R.**

We affirm the order from the June 23, 2006 status review hearing (A114530). The order from the October 17, 2006 hearing (A115595) is reversed insofar as it finds the probation department made reasonable efforts to safely return the minor. The matter is remanded for a new hearing on the issue of visitation services and to allow the juvenile court to determine minimum visitation with the father and to provide visitation guidelines to the program consistent with the views set forth herein. Kline, P.J. We Concur: Lambden, J., Richman, J. (Certified for Publication.)



## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Tuesday, July 17, 2007

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Lambden, J., Officer Ching and S. Wheeler, Deputy Clerk.

A111933      The People,  
                 v.  
                 eduardo Aguilar Cabrera.  
Cause called and argued by Walker K. Pyle, counsel for appellant, and John R. Vance, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A115920      Lynetter Jones et al.,  
                 v.  
                 Los Gatos Construction Company Inc.  
Cause called and argued by John Howard Elson, counsel for appellants, and Edward Charles Schroeder, counsel for respondent. Cause ordered submitted.

At this point in the proceedings J. Haerle left the bench and J. Richman joins the bench for the remainder of the calendar.

A116437      In re Peter George Cooper On Habeas Corpus.  
  
Cause called and argued by William Bennett Turner, counsel for appellant, and Amber Wipfler, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A114263      Harry Allen  
                 v.  
                 Daimler Chrysler Motors Co LLC.  
Cause called and argued by Patrick W. Emery, counsel for appellant, and John W. Rogers, counsel for respondent. Cause ordered submitted.

A116524 Martha E. Hubbard,  
v.  
Blue Shield of California.  
Cause called and argued by Richard M. Rogers, counsel for appellant; and  
Jennifer J. Walt, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P.J., Haerle, J., Richman, J.,  
Officer Ching and S. Wheeler, Deputy Clerk.

A115070 MJ-SF Investments, et al.,  
v.  
Alison Dixon, et al.  
Cause called and appearance by Waukeen Q. McCoy and Spencer Smith, counsel  
for appellants, and James Brandan Kraus and Paul Utrecht, counsel for  
respondents. Appellants filed a Request for Dismissal on July 16, 2007; matter  
taken off calendar.

A113380 The People,  
v.  
Henry Paul Inocencio.  
Cause called and argued by Eric Stephen Multhaup, counsel for appellant, and  
Allan Yannow, Deputy Attorney General, counsel for respondent. Cause ordered  
submitted.

A113985 Alexander Norton,  
v.  
State of California.  
Cause called and argued by Robert Leon Rusky, counsel for appellant, and Robert  
Reiter, counsel for respondent. Cause ordered submitted.

**COURT ADJOURNED.**

Tuesday, July 17, 2007

Division Three

**A113639 – The People v. Raul Ezequiel Rodriguez.**

Appellant's conviction for violating a restraining order (§ 273.6, subd. (a); count 4) is reversed. The upper term sentence on appellant's first degree burglary conviction (§ 459; count 2) is vacated and the matter is remanded for resentencing in accordance with the requirements of *Cunningham*. We express no opinion whether compliance with *Cunningham* will require a change in the actual sentence imposed in this case. In all other respects, the judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Siggins, J. (Not for Publication.)

Division Four

**A114945 – Daniel Sheehan et al. v. The San Francisco 49ers, Ltd.**

The judgment is affirmed. Reardon, J. I Concur: Ruvolo, J. (See Dissenting Opinion of Rivera, J.) (Certified for Publication.)

**A114211 – The People v. Robert Barry Roberts.**

By the Court: The petition for rehearing is denied. Ruvolo, P.J.

Wednesday, July 18, 2007

Division One

**A115538 – The People v. Larry Stancliff.**

The trial court's order dated November 15, 2005, regarding defendant's custody credit calculation, is set aside. The matter is remanded to the superior court for a recalculation of defendant's custody credits in accordance with his plea bargain. The Clerk of this Court is directed to issue the remittitur forthwith. (Cal. Rules of Court, rule 8.272(c)(1).) Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A107420 – The People v. Chad Holzhauser.**

By the Court: The petition for rehearing is denied. Marchiano, P.J.

Division Two

**A116283 – The People v. Nathan Seastrunk.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

**A110351 – The People v. Ronald Virgil Brooks.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

**A115587, A116352 – In re A.W., a Person Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services v. David W.**

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

Division Three

**A114962 – John G. Wang et al. v. Merrill Lynch Credit Corporation.**

The order of June 13, 2006 is affirmed. Pollak, J. We Concur: McGuinness, P.J., Siggins, J. (Not for Publication.)

**A114943 – Affholder, Inc. v. Mitchell Engineering, Inc.**

The judgment is affirmed. Pollak, J. We Concur: Parrilli, Acting P.J., Siggins, J. (Certified for Publication.)

Wednesday, July 18, 2007 (continued)

Division Three

**A104009 – The People v. Nicolas Quintanilla.**

The judgment is vacated only as to appellant's sentence, and the case is remanded for resentencing. The judgment is otherwise affirmed. We express no opinion whether compliance with *Cunningham* will require a change in the actual sentence imposed in this case. Parrilli, Acting P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

**A106687 – The People v. Mark Franklin King.**

The judgment is vacated only as to defendant's sentence, and the case is remanded for resentencing. The judgment is otherwise affirmed. We express no opinion whether compliance with *Cunningham* will require a change in the actual sentence imposed in this case. Parrilli, Acting P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

**A116761 – Zenith Insurance Co. v. Workers' Compensation Appeals Board and Nader Azizi.**

By the Court: The opinion in the above-entitled matter filed on June 19, 2007, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. McGuiness, P.J. (Certified for Publication.)

**A115019 – Joshua Le Master v. Brian Tolson et al.**

The judgment is reversed and the matter is remanded to the trial court for further proceedings. Pollak, J. We Concur: Parrilli, Acting P.J., Siggins, J. (Not for Publication.)

Division Four

**A114866 – In re Amanda A., et al., Persons Coming Under the Juvenile Court Law. San Mateo County Human Services Agency v. Marie F.-A.**

By the Court: On our own motion, we grant rehearing in this matter. (See Gov. Code, § 68081; Cal. Rules of Court, rule 8.268(a)(1).) Within 10 days of the filing date of this order, the parties may file letter briefs addressing only the question of whether the August 2006 order continuing the minors' out-of-home placement was rendered moot by the October 2006 order returning them to the custody of appellant Marie F.- A. Ruvolo, P.J.

**A114779 – Storm Water Inspection and Maintenance Services, Inc. v. Chrystina Smith.**

By the Court: The petition for rehearing is denied. Ruvolo, P.J.

Thursday, July 19, 2007

Division One

**A113678 – The People v. Wilton Eugene Jones.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A116284 – The People v. Alfredo Pantoja Nunez.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A114181 – Trinidad Amador et al. v. Judith Charter et al.**

The judgment entered by the trial court is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A112922 – The People v. Merhani Teklemariam Bahabla.**

The judgment and sentences are affirmed in their entirety. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Two

**A113464 – In re Daniel N., a Person Coming Under the Juvenile Court Law. The People v. Daniel N.**

The judgment is affirmed. Richman, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A114565 – The People v. Steven L. Berry.**

The judgment of conviction is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A115651 – The People v. Robert E. Hunter.**

Accordingly, the criminal laboratory analysis fee is stricken, and the rest of the judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Thursday, July 19, 2007

Division Four

**A111299 – The People v. Dale Edward Pauletich.**

The judgment is affirmed. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

**A115298 – Fujitsu Software Corp. v. Howard E. Hinman.**

By the Court: It is ordered that the opinion filed herein on June 26, 2007, be modified as follows: (See Order.) There is no change in the judgment. Jones, P.J. (Not for Publication.)

**MINUTES**  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION FIVE

Thursday, July 19, 2007

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Simons, J., Gemello, J., Needham, Jr., J., Richard H. Sandvik, Deputy Clerk.

- A111845     Carl Blau,  
                 v.  
                 Northridge Hospital Medical Center, et al.  
                 Cause called and argued by Henry R. Fenton, counsel for appellant, and by Barry S. Landsberg, counsel for respondent. Cause ordered submitted.
- A114721     The People,  
                 v.  
                 Jai Pratat Verma.  
                 Cause called and argued by Hugh A. Levine, counsel for appellant, and by Gerald A. Engler, counsel for respondent. Cause ordered submitted.
- A112374     The People,  
                 v.  
                 Douglas Kalane Raposa.  
                 Cause called and argued by James F. Johnson, counsel for appellant, and by Allen R. Crown, counsel for respondent. Cause ordered submitted.
- A115380     STMicroelectronics, Inc.,  
                 v.  
                 Eliyahou Harari, et al.  
                 Cause called and argued by Bart Volkmer, counsel for appellant, and by Russell L. Johnson, counsel for respondent. Cause ordered submitted.
- A114397     Deboah Streicher,  
                 v.  
                 Charles Plummer.  
                 Cause called and argued by Corey Evans, counsel for appellant, and by Richard Karlsson, counsel for respondent. Cause ordered submitted.



A115680     In re Cedrick K., a Person Coming Under The Juvenile Court Law.  
The People,  
v.  
Cedrick K.  
Cause called and argued by Peter B. Meadow, counsel for appellant, and by Christopher Grove, counsel for respondent. Cause ordered submitted.

A115079     Gloria Peterson, Individually, and as  
Successor-in-Interest to John Peterson etc.,  
v.  
John Crane, Inc.  
Cause called and argued by Mary E. Pougiales, counsel for appellant, and by Barry N. Endick, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Gemello left the bench and Justice Simons entered.

A116463     Philip Rowe,  
v.  
Louis Exline, et al.  
Cause called and argued by Timothy J. Buchanan, counsel for appellant, and by Timothy A. Walker, counsel for respondent. Cause ordered submitted.

Court recessed at 12:03 p.m.

**MINUTES**  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION FIVE

Thursday, July 19, 2007

Court convened at 1:30 p.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Simons, J., Gemello, J., Needham, Jr., J., Richard H. Sandvik, Deputy Clerk.

A113516     C.M., a Minor, etc., et al.,  
              v.  
              Park Management Corporation, et al.  
Cause called and argued by Eric Young, counsel for appellants, and by Layne M. Bukovskis, counsel for respondent. Cause ordered submitted.

A112450     The People,  
              v.  
              Robert Jeffrey Jones.  
Cause called and argued by Steven S. Lubliner, counsel for appellant, and by Margo J. Yu, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Jones left the bench and Justice Needham entered.

A115533     The People,  
              v.  
              Michael Smith.  
Cause called and argued by Peter B. Meadow, counsel for appellant, and by Michael E. Banister, counsel for respondent. Cause ordered submitted.

A115779     Rebecca T. Shumye,  
              v.  
              Samuel D. Felleke.  
Cause called and argued by Rebecca T. Shumye, appellant, in pro per, and by Samuel D. Felleke, respondent, in pro per, argued via teleconference. Cause ordered submitted.

A115689     Redwood Oil Company Inc.,  
              v.  
              Mendocino County Air Quality Management District.  
Order to show cause discharged by order on July 18, 2007.

Court adjourned at 2:48 p.m.

Friday, July 20, 2007

Division One

**A113318 – Eve Chosak v. Alameda County Medical Center et al.**

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J.  
(Certified for Partial Publication.)

**A113967 – Murray Kelsoe v. California State Water Resources Control Board.**

The order denying the petition for writ of mandate is reversed. The cause is remanded to the trial court with directions to grant the petition for the limited purpose of determining whether plaintiff satisfies the requirements for a permit waiver, consistent with the discussion in this opinion. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Certified for Publication.)

**A115300 – Yong Zhang v. Synder, Inc., et al.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A111315 – The People v. Alfredo Valenzuela.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Four

**A114524 – In re Allen J., a Person Coming Under the Juvenile Court Law. The People v. Allen J.**

The order is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A110304 – The People v. Michael Perez.**

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Friday, July 20, 2007 (continued)

Division Four

**A115074 – Linda L. Brown et al. v. Clay Hill Condominium Homeowners Association.**

The order filed June 16, 2006, striking the first cause of action for negligence and second cause of action for breach of fiduciary duty from plaintiffs' second amended complaint, and awarding defendant attorney fees and costs, is reversed. The order is affirmed to the extent it denied the motion to strike the third cause of action for breach of contract. The case is remanded to the trial court for consideration of the demurrer as to the first and second causes of action. Plaintiffs shall recover their costs incurred on appeal upon timely application in the trial court. (Cal. Rules of Court, rule 8.276.) Plaintiffs are not entitled to costs and attorney fees incurred on the motion in the trial court, as plaintiffs failed to demonstrate that the motion was frivolous or solely intended to cause unnecessary delay. (§ 425.16, subd. (c).) Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

**A116613 – Raymond Cote v. Lincoln D. Finley.**

**A116613 – Raymond Cote v. Latonya Finley.**

The order granting attorney fees is affirmed. Respondent shall recover his costs on appeal. Sepulveda, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Monday, July 23, 2007

Division Five

**A117722 – In re Aaron H., a Person Coming Under the Juvenile Court Law. Aaron H. v. Superior Court of Contra Costa County; Contra Costa County Children and Family Services, R.P.I.**

The petition for extraordinary writ is denied on the merits. (See Cal.Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Petitioner is barred in any subsequent appeal from making further challenges to orders terminating reunification services and setting a hearing under section 366.26. (§ 366.26, subd. (I).) Because the section 366.26 hearing is set for August 8, 2007, our decision is final as to this court immediately. (Cal. Rules of Court, rule 8.264(b)(3).) Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Tuesday, July 24, 2007

Division One

**A114526 – In re Dominique C., a Person Coming under the Juvenile Court Law.  
The People v. Dominique C.**

The jurisdictional and dispositional orders are affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A112928 – The People v. Robert Hayden Nesbitt.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Three

**A114724 – The People v. Christopher Killebrew.**

The judgment is affirmed. Parrilli, Acting P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

**A117368 – Kief G. v. The Superior Court of San Francisco County; San Francisco County Department of Human Services, R.P.I.**

The petition is denied, the stay is dissolved and the case remanded for further proceedings. The decision is final in this court immediately. (CRC rule 8.264(b)(3).) Parrilli, J. We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

**A112744 – The People v. Anita Beatrix Blick.**

The judgment is vacated and the matter remanded for further proceedings. Parrilli, J. We Concur: McGuiness, P.J., Siggins, J. (Certified for Publication.)

**A115872 – The People v. Stephen Craig Martin.**

The judgment is modified by striking the imposition of a \$10 court security fee and directing the imposition of a \$20 court security fee. As so modified, the judgment is affirmed. The court is directed to prepare an amended abstract of judgment that reflects the modification and to forward a certified copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Division Four

**A114768 – The People v. Sandra Ann Belisle.**

Judgment affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, July 24, 2007

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P.J., Reardon, J., and Sepulveda, J.; Channing Hoo, Deputy Clerk; CHP Officer Vince Chambers, Bailiff.

A109625      People  
                 v.  
                 Benjamin Dawson  
Cause called. Barry M. Karl argued for appellant Dawson. Dorian Jung argues for respondent. Cause submitted.

At this point, the court reconstituted itself to include Ruvolo, P.J., Reardon, J., and Rivera, J.

A112741      Perini Corporation et al.  
                 v.  
                 Alagia-Crosby Engineers et al.  
Cause called. Matthew Luce argued for appellants Perini et al. David Ericksen argued for respondents. Cause submitted.

At this point, the court reconstituted itself to include Ruvolo, P.J., Reardon, J., and Sepulveda, J.

A116115      Rosemary Parvizi et al.  
                 v.  
                 Abraham G. Hsieh, MD.  
Cause called. Geoffrey Becker argued for appellants Parvizi et al. Gary Watt argued for respondent. Cause submitted.

Court adjourned at 10:52 a.m.

Tuesday, July 24, 2007 (continued)

Division Five

**A117004 – The People v. Charles Spencer Reed.**

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)



Wednesday, July 25, 2007

Division One

**A113141 – The People v. Abraham Tiggs.**

The trial court's order is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A115956 – In re Savannah T., a Person Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services v. Melanie T.**

The juvenile court's order following the interim review hearing of November 16, 2006 is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A114497 – The People v. Daniel Alva Reeves.**

The judgment of conviction and sentence are affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

**A112810 – The People v. John R. Arias.**

The judgment is reversed insofar as it convicts appellant for violation of section 11366.8, subdivision (a). In all other respects, the judgment is affirmed. The four-year concurrent term imposed for violation of section 11366.8, subdivision (a), is stricken and the matter remanded to the trial court for preparation of an amended abstract of judgment. Kline, P.J. We Concur: Lambden, J., Richman, J. (Certified for Partial Publication.)

Division Three

**A115975 – Levi Williams, Jr. v. Bax Global Inc., et al.**

The judgment is affirmed. Siggins, J. We Concur: Parrilli, Acting P.J., Pollak, J. (Not for Publication.)

**A114643 – Wendell Row v. Rapid Packaging Delivery et al.**

By the Court: The petition for rehearing is denied. McGuinness, P.J.

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, July 25, 2007

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Parrilli, J., and Siggins, J; and P. Acosta, Deputy Clerk.

A114989     In re the Marriage of ERIN YOUNG & BRUCE YOUNG.  
              Erin Young  
              v.  
              Bruce Young,

Cause called and argued by Doris Slater, counsel for appellant, and Carola Kekow, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Pollak joined the bench. Justice Siggins remained in the courtroom but was not on the panel for the next case and did not participate in argument.

A112879     Valerie Taybron,  
              v.  
              Allstate Insurance Co.,

Cause called and argued by Michael Steven Sorgen, counsel for appellant, and Carola Kekow, counsel for respondent. Cause ordered submitted.

A112259     David R. Gilliam.,  
              v.  
              California Physicians' Services, et al.,

Cause called and argued by Daniel Smith for respondent, and Lawrence Rose, counsel for appellant. Parties instructed to finalize tentative settlement by August 29, 2007, and file request for dismissal, or opinion shall issue on August 30, 2007. Cause ordered submitted.

At this point in the proceedings, Justice Parrilli left the bench.

A112837    The People.,  
              v.  
              Bobby Antoine McKenzie.

Cause called and argued by Solomon Wollack, counsel for appellant, and Christopher Wei, counsel for respondent. Cause ordered submitted.

A113263    Marilou Cotchett Sells,  
              v.  
              Angelo Orphan, et al.,

Cause called and argued by Linda Mallette, counsel for appellant, and George Eshoo, counsel for respondent. Cause ordered submitted.

Court Adjourned

Wednesday, July 25, 2007 (continued)

Division Four

**A116904 – In re Howard Johnson III, on Habeas Corpus.**

The petition for a writ of habeas corpus is granted. Let a writ of habeas corpus issue directing the Superior Court of Alameda County to correct the judgment and file an amended abstract of judgment that reflects the application of petitioner's presentence custody credits first against his sentence in case no. H24496, and then against his sentences in case nos. 130929B and/or 134858, until the credits are exhausted. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

**A112906 – Mary Musaelian v. William L. Adams et al., John G. Warner.**

The judgment is reversed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Certified for Partial Publication.)

Division Five

**A114043 – In re Deshawn E., a Person Coming Under the Juvenile Court Law. The People v. Deshawn E.**

The juvenile court order is reversed. Gemello, J. We Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

**A115680 – In re Cedrick K., a Person Coming Under the Juvenile Court Law. The People v. Cedric K.**

The juvenile court order is affirmed. Gemello, J. We Concur: Jones, P.J., Needham, J. (Not for Publication.)

**A112374 – The People v. Douglas Kalane Raposa.**

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Needham, J. (Not for Publication.)

**A115533 – The People v. Michael Smith.**

The judgment is affirmed. Needham, J. We Concur: Simons, Acting P.J., Gemello, J. (Not for Publication.)

Thursday, July 26, 2007

Division One

**A111668 – Crawford U. Thomason v. Angela L. Morgan et al.**

The judgment and the order denying appellant's motion for a new trial are affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A114933 - In re Byron C., a Person Coming Under the Juvenile Court Law. The People v. Byron C.**

The orders appealed from are affirmed. Haerle, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

**A115162 – In re Christopher G., a Person Coming Under the Juvenile Court Law. San Mateo County Human Services Agency v. Jennifer Z.**

By the Court: It is ordered that the unpublished opinion filed herein on June 27, 2007, be modified as follows: (See order.) There is no change in the judgment. Appellant's petition for rehearing is denied. Haerle, Acting P.J. (Not for Publication.)

Division Three

**A113639 – The People v. Raul Ezequiel Rodriguez.**

Appellant's conviction for violating a restraining order (§ 273.6, subd. (a); count 4) is reversed. In all other respects, the judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Siggins, J. (Not for Publication.)

**A116326 - In re Aaron I., a Person Coming Under the Juvenile Court Law. The People v. Aaron I.**

The matter is remanded with directions to the juvenile court (1) to correct the written dispositional and commitment orders to reflect that appellant is awarded credit for time served of 1,121 days, and (2) to strike from the written dispositional order the statement that appellant's maximum period of physical confinement at Department of Corrections and Rehabilitation, Division of Juvenile Facilities, is 18 years, 2 months. The juvenile court shall send an amended commitment order to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities. The dispositional and commitment orders are otherwise affirmed. Parrilli, Acting P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

Thursday, July 26, 2007 (continued)

Division Five

**A115690 – Eric Armitage v. First American Title Insurance Company.**

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Needham, J. (Not for Publication.)

Friday, July 27, 2007

Division One

**A116421 – Irma Zamudo v. Samuel Lopez.**

Samuel A. Lopez appeals from an antiharassment restraining order. (Code Civ. Proc., § 527.6.) The appeal is moot because the order restraining him expired on March 19, 2007. (See, e.g., *Environmental Charter High School v. Centinela Valley Union High School Dist.* (2004) 122 Cal.App.4th 139, 144 [appeal from grant of temporal relief is moot if relief expires before appeal can be heard].) Accordingly, the appeal is dismissed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

**A113318 – Eve Chosak v. Alameda County Medical Center et al.**

By the Court: It is ordered that the opinion filed herein on July 20, 2007, be modified as follows: (See order.) There is no change in the judgment. Margulies, Acting P.J.

**A114641 – Leonard Devilbiss v. John A. DeMarchi.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A116702 – Washington Mutual Bank et al. v. Workers' Compensation Appeals Board and Judy Helm.**

Therefore, the portion of the decision and opinion after reconsideration applying the 1997 rating schedule to the calculation of permanent disability is annulled. The matter is remanded to the Board for further proceedings consistent with this opinion. The parties shall bear their own costs. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

**A116437 – In re Peter George Cooper, on Habeas Corpus.**

The Governor's decision reversing the Board's grant of parole to Cooper is vacated. Cooper's petition for habeas corpus is granted. The Board is ordered to release Cooper pursuant to the conditions set forth in its decision of February 16, 2006, granting him parole and setting a release date. Considering that the minimum eligible parole date set by the Board was July 24, 2001, and in the interests of justice, this opinion shall be final as to this court immediately. (Cal. Rules of Court, rule 8.264(b)(3).) Lambden, J. We Concur: Kline, P.J., Richman, J. (Certified for Publication.)

**A111975 – The People v. Antoine Ardds.**

Defendant's conviction for count one is reversed and the trial court is ordered to modify the abstract of judgment accordingly. The trial court's judgment is affirmed in all other respects. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Friday, July 27, 2007 (continued)

Division Three

**A114989 – In re the Marriage of Erin and Bruce Young. Erin Young v. Bruce Young.**

The judgment on reserved issues is reversed to the extent it concludes that no valid transmutation of the Property was made when Husband executed the grant deed in February 2001. The cause is remanded to the trial court for further proceedings, consistent with this decision, to determine whether another valid transmutation of the Property was made when Wife executed the quitclaim deed in July 2001. Parrilli, J. We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

Division Five

**A114397 – Deborah Streicher v. Gregory Ahern, as Sheriff, etc., et al.**

The order is affirmed. Needham, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)



Monday, July 30, 2007

Division Three

**A112879 – Valerie Taybron v. Allstate Insurance Company.**

The judgment in favor of Allstate Insurance Company is reversed. On remand the trial court should modify its order granting summary judgment in favor of Allstate Insurance Company by adding a provision that Allstate's motion for summary judgment is denied as to the causes of action for breach of contract and breach of the implied covenant of good faith and fair dealing. Plaintiff is awarded costs on this appeal. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A114980 – The People v. Justin Meskan.**

The order revoking defendant's probation is affirmed. Pollak, J. We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

Division Four

**A114636 – Sheet Metal Workers International Association, Local Union No. 104 v. John M. Rea, as Acting Director, etc.; Solano County Roofing, Inc., R.P.I.**

The judgment is affirmed. Reardon, J. We Concur: Ruvolo, P.J., Rivera, J. (Certified for Publication.)

**A116898 – The People v. Demandre Washington.**

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Division Five

**A112362 – The People v. Melvin Lee Morris, Sr.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Needham, J. (Not for Publication.)

Tuesday, July 31, 2007

Division One

**A116032 – The People v. Alvin Rene Groves.**

We find no arguable issue that require further briefing and accordingly, affirm the judgment. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A115647 – In re E.T., a Person Coming Under the Juvenile Court Law. Humboldt County Department of Health & Human Services v. Salliandra T.**

The order of October 18, 2006 is reversed and the proceeding is remanded to the juvenile court with directions to order the Agency to comply with the notice provisions of ICWA, and to file all required documentation with the juvenile court for that court's inspection. If, after proper notice, a tribe claims E. T. is an Indian child, the juvenile court shall proceed in conformity with all the provisions of ICWA. If no tribe claims that E. T. is an Indian child, the order of October 18, 2006, terminating Mother's parental rights, shall be reinstated. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

**A115546 – The People v. Juan Viera.**

We modify the abstract of judgment to strike the second restitution fine imposed under section 1202.4. As modified, the judgment of conviction and sentence are affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

**A117150 – San Francisco Marriott v. Workers' Compensation Appeals Board; Antonio Yamat.**

Therefore, the portion of the Opinion and Decision After Reconsideration deferring the issue of permanent disability in order for the worker's compensation judge to rate Yamat's permanent disability under the old 1997 rating schedule is annulled. The matter is remanded to the Board for further proceedings consistent with this opinion. The parties shall bear their own costs. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

**A116039 – The People v. David Fela Iman Hammond.**

The judgment of conviction and sentence are affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

**A117444 – University of California, San Francisco et al. v. Workers' Compensation Appeals Board and Rana Rand.**

Because none of the exceptions to application of the January 1, 2005 rating schedule were applicable in Rand's case, the use of the 1997 schedule was error. Therefore, the portion of the decision and opinion after reconsideration applying the 1997 rating schedule to the calculation of permanent disability is annulled. The matter is remanded to the Board for further proceedings consistent with this opinion. The parties shall bear their own costs. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Tuesday, July 31, 2007 (continued)

Division One

**A112699 – The People v. Rolando Herrera Del Toro.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Three

**A113730 – The People v. Ramon Jermaine Sapp.**

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A115485 – The People v. Robert P. Masalosalo.**

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A106687 – The People v. Mark Franklin King.**

By the Court: The petition for rehearing is granted. McGuiness, P.J.

**A104009 – The People v. Nicolas Quintanilla.**

By the Court: The petition for rehearing is granted. McGuiness, P.J.

**A112816 – Jackie Barshak v. American Equity Insurance Company et al.**

The judgment is affirmed. Siggins, J. We Concur: Parrilli, Acting P.J., Pollak, J. (Not for Publication.)

**A108492 – The People v. Zameer Riaz Azam.**

The judgment is affirmed. Siggins, J. We Concur: Parrilli, Acting P.J., Pollak, J. (Not for Publication.)

**A104009 – The People v. Nicolas Quintanilla.**

The judgment is affirmed. Parrilli, Acting P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

**A116605 – In re S.C., a Person Coming Under the Juvenile Court Law. The People v. S.C.**

The jurisdictional order is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Tuesday, July 31, 2007 (continued)

Division Three

**A114146 – The People v. Gerald Kenneth Small.**

The judgment is affirmed. McGuiness, P.J. I Concur: Parrilli, J. (See concurring opinion by Pollak, J.) (Not for Publication.)

**A113263 – Marilou Cotchett Sells v. Angelo Orphan et al.**

The judgment is affirmed. Siggins, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A115282 – The People v. David Michael Craver.**

The judgment is affirmed. McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

**A106687 – The People v. Mark Franklin King.**

The judgment is affirmed. Parrilli, Acting P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

Division Four

**A116115 – Rosemary Parvizi et al. v. Abraham G. Hsieh et al.**

The judgment is affirmed. Respondents shall recover their costs on appeal. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

**A113256 – In re Devonne W., a Person Coming Under the Juvenile Court Law. The People v. Devonne W.**

The dispositional order is affirmed. Reardon, J. We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

**A115450 – The People v. James Claus Mitchell.**

The judgment is affirmed. Ruvolo, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

**A116334 – The People v. Senteza Pierre Hardin.**

The judgment is affirmed. Ruvolo, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

**A116839 – The People v. Connie Jean Dodson.**

Judgment affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Tuesday, July 31, 2007 (continued)

Division Five

**A114721 – The People v. Jai Verma.**

The judgment is affirmed. Jones, P.J. We Concur: Gemello, J., Needham, J. (Not for Publication.)

**A115279 – The People v. Burney Tyrone Stewart.**

The trial court is ordered to prepare and to forward to the appropriate authorities an amended abstract of judgment showing appellant is subject to a \$200 restitution fine under section 1202.4, and a suspended \$200 parole revocation fine under section 1202.45. In all other respects, the judgment is affirmed. Jones, P.J. We Concur: Gemello, J., Needham, J. (Not for Publication.)

**A116549 – In re Isaiah W., a Person Coming Under the Juvenile Court Law. The People v. Isaiah W.**

The juvenile court orders are affirmed. Gemello, J. We Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

**A112450 – The People v. Robert Jeffery Jones.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

**A112745 – The People v. Marcos Dominguez Lemos.**

The judgment is affirmed. Needham, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A116463 – Philip Rowe et al. v. Louis Exline et al.**

The order is reversed, and the matter is remanded to the trial court for entry of a new and different order granting appellants' motion to compel arbitration. Costs on appeal to appellants. Needham, J. We Concur: Jones, P.J., Simons, J. (Certified for Publication.)

**A115959 – In re Anna S., a Person Coming Under the Juvenile Court Law. Napa County Department of Health & Human Services v. Cheryl S.**

The order is affirmed. Jones, P.J. We Concur: Simons, J., Needham, J. (Not for Publication.)